

REGULATION IV - THE HEARING BOARD
RULE 400
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**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS**

REGULATION IV - THE HEARING BOARD

**RULE 400
PROCEDURE BEFORE THE HEARING BOARD**

SECTION 100 - GENERAL

- 101 PURPOSE:** To prescribe procedures that shall apply to all hearings before the hearing board.

SECTION 200 - DEFINITIONS: For the purpose of this rule the following definition shall apply:

- 201 HEARING BOARD -** The Maricopa County Air Pollution Control Hearing Board appointed by the Maricopa County Board of Supervisors.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

- 401 HEARING ON ORDER OF ABATEMENT:** An order of abatement issued by the Control Officer shall become effective immediately upon the expiration of the time during which a request for a hearing may be made pursuant to ARS§49-511, unless the person or persons named in said order shall have made a timely request for a hearing before the hearing board. If a hearing is requested, the hearing board shall hold the hearing within 30 days from receipt of the request unless said time is extended by the hearing board. Written notice of the time and place of the hearing shall be sent by the hearing board by registered or certified mail to the person or persons requesting the hearing and to the Control Officer at least 15 days before the hearing. (ARS§49-490)
- 402 ACTION ON VIOLATION:** If the hearing board, after the hearing, determines that the act or acts set forth in the order constitute a violation of any provision of these rules or any requirement of a permit or conditional order issued pursuant to these rules and that no conditional order is justified, the hearing board shall affirm or modify the order for abatement. The order may be conditional and require a person to refrain from the particular act or acts unless certain conditions are met. (ARS§49-490)

- 403 DECISIONS OF HEARING BOARD:** All decisions of the hearing board, including the majority opinion and all concurring and dissenting opinions, shall be in writing, shall be of public record, and shall be kept in the offices of the Division of Air Pollution Control. A majority of the total membership of the hearing board shall concur in a decision for it to have effect. (ARS§49-496)
- 404 APPEALS TO THE HEARING BOARD:** Within 30 days after notice is given by the Control Officer of approval or denial or revocation of a permit, permit revision, or conditional order, the applicant and any person who filed a comment on the permit, permit revision, or conditional order, may petition the hearing board, in writing, for a public hearing, which shall be held within 30 days after receipt of the petition. The hearing board, after notice and a public hearing, may sustain, modify or reverse the action of the Control Officer. (ARS§49-482)
- 405 SUBPOENAS:** The Chairperson, or in the absence of the Chairperson, the Vice Chairperson may issue subpoenas to compel attendance of any person at hearings and require the production of books, records, and other documents material to a hearing. Obedience to subpoenas may be enforced pursuant to ARS§12-2212. (ARS§49-496)
- 406 EFFECTIVE DATE OF DECISIONS:** Decisions of the hearing board shall become effective not less than 30 days after they are issued unless a rehearing is granted which shall have the effect of staying the decision, or it is determined that an emergency exists which justifies an earlier effective date. (ARS§49-496)
- 407 AUTHORITY TO REVOKE:** The hearing board may revoke or modify an order of abatement, or a permit revision only after first holding a hearing within 30 days from the giving of notice of such hearing. (ARS§49-498)
- 408 PUBLICATION OF HEARING:** Any notice of hearing required by these rules shall be given by publication of a notice of hearing at least two times in a newspaper of general circulation published in the county concerned, or if there is no such newspaper published in the county, in a newspaper of general circulation published in an adjoining county, and by posting copies of the petition and notice in at least three conspicuous places in the county. (ARS§49-498)
- 409 SERVICE OF NOTICE:** If the hearing involves any violation of these rules or a conditional order issued pursuant thereto, then in addition to the requirements of Section 409 of this rule, the person allegedly committing or having committed the violation or requesting the conditional order shall be served personally or by registered mail or certified mail at least 15 days prior to the hearing with a written notice of hearing. (ARS§ 49-498)